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EXAMINER

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte MARTIN MILLMORE, DINESH ARORA,
MICHAEL ROSSI, AARON GREEN, and PAUL BRIMBLE

Appeal 2016-004812
Application 12/167,661¹
Technology Center 3600

Before JUSTIN BUSCH, JOHN D. HAMANN, and JOYCE CRAIG,
Administrative Patent Judges.

CRAIG, *Administrative Patent Judge.*

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1–25, which are all of the claims pending in this application. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

¹ According to Appellants, the real party in interest is Oracle International Corporation. App. Br. 2.

INVENTION

Appellants' application relates to creating relationship maps from enterprise application system data. Abstract. Claim 1 is illustrative of the appealed subject matter and reads as follows:

1. A computer-implemented method for creating a relationship map using enterprise application system (EAS) data for an enterprise, comprising:

at a processor, automatically collecting relationship data from at least one EAS module; and

at the processor, generating a relationship map from the collected relationship data, the relationship map comprising a visualization of relationships for a selected employee to at least one other person using a relationship link, wherein the presence of the relationship link on the map is based on one or more instances of a relationship from the relationship data;

the at least one EAS module comprising a human resources (HR) module and a customer relations management (CRM) module;

the relationship data comprising HR data that comprises a hierarchical relationship of employees of the enterprise that work together from the HR module, and CRM data that comprises employees that share a common customer from the CRM module, wherein a first instance of a relationship is generated between the selected employee and the person when the selected employee works in the same department with the person based on the HR data, wherein a second instance of a relationship is generated between the selected employee and the person when the selected employee works as a supervisor of the person based on the HR data, and wherein a third instance of a relationship is generated between the selected employee and the person when the selected employee shares a common customer with the person based on the CRM data; and

at the processor, weighting the relationship link between the selected employee and the person, wherein the weighting is based on a frequency of instances of relationships between the selected employee and the person.

REJECTIONS

Claims 1–25 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.

Claims 1–25 stand rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1–25 stand rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Robins (US 2005/0267887 A1; published Dec. 1, 2005) and Isaacs et al. (US 6,832,245 B1; Dec. 14, 2004).

ANALYSIS

Rejection of Claims 1–25 under 35 U.S.C. § 112, First Paragraph

The Examiner rejected claims 1–25 for lack of written description because the Specification fails to support the recited “weighting” limitations. Final Act. 2. In particular, the Examiner found that the Specification “fails to support how the weight being based on the number of generated instances of relationships,” and “[o]ne is not able to identify or understand how a ‘frequency’ of the relationships is weighted.” *Id.* at 3.

Appellants contend the Examiner erred because the disputed “weighting” limitation is supported by paragraphs 18 and 19 of the Specification. App. Br. 3. We agree. In paragraph 18, there are two examples of how weights may be based on the frequency of the relationship data: (1) “employees who email each other frequently will have a stronger weight in their relationship link than employees who email each other infrequently,” and (2) “employees who work on the same projects frequently will have a stronger weight in their relationship link than employees who work on the same projects infrequently.” Spec. ¶ 18. The Specification

describes that a Relationship Management module collects relationship data from Email Server 150, and that this relationship data may include instances of emails between two employees or the frequency with which they exchange emails. Spec. ¶ 14. Thus, even in the absence of numerical examples of the weighting, we agree with Appellants that such disclosure is sufficient to show possession at the time of invention as to how the relationships are weighted. *See* Reply Br. 2.

Accordingly, we do not sustain the Examiner’s rejection of claims 1–25 under 35 U.S.C. § 112, first paragraph, for lack of written description.

Rejection of Claims 1–25 under 35 U.S.C. § 101

Under 35 U.S.C. § 101, an invention is patent-eligible if it claims a “new and useful process, machine, manufacture, or composition of matter.” 35 U.S.C. § 101. The Supreme Court, however, has long interpreted § 101 to include an implicit exception: “[l]aws of nature, natural phenomena, and abstract ideas” are not patentable. *See, e.g., Alice Corp. Pty Ltd. v. CLS Bank Int’l*, 134 S. Ct. 2347, 2354 (2014).

The Supreme Court, in *Alice*, reiterated the two-step framework previously set forth in *Mayo Collaborative Services v. Prometheus Labs., Inc.*, 132 S. Ct. 1289, 1300 (2012), “for distinguishing patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications of these concepts.” *Alice*, 134 S. Ct. at 2355. The first step in that analysis is to “determine whether the claims at issue are directed to one of those patent-ineligible concepts,” *id.*, e.g., to an abstract idea. If the claims are not directed to an abstract idea, the inquiry ends. Otherwise, the inquiry proceeds to the second step where the elements of the claims are considered “individually and ‘as an ordered combination’” to

determine whether there are additional elements that “transform the nature of the claim’ into a patent-eligible application.” *Alice*, 134 S. Ct. at 2355 (quoting *Mayo*, 132 S. Ct. at 1297).

The Court acknowledged in *Mayo* that “all inventions at some level embody, use, reflect, rest upon, or apply laws of nature, natural phenomena, or abstract ideas.” *Mayo*, 132 S. Ct. at 1293. We, therefore, look to whether the claims focus on a specific means or method that improves the relevant technology or are instead directed to a result or effect that itself is the abstract idea and merely invoke generic processes and machinery. *See Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1336 (Fed. Cir. 2016).

The Examiner found that claims 1–25 are directed to the abstract idea of relationships between individuals within an organization (Ans. 9) and do not recite limitations that are “significantly more” than this abstract idea because the additional elements or combination of elements in the claims amount to no more than a processor and software modules (*id.* at 10).

Each of independent claims 1, 13, 18, and 22 requires in one form or another these limitations, viz. 1) automatically collecting relationship data from at least one EAS module; 2) generating a relationship map from the collected relationship data; and 3) weighting the relationship link between the selected employee and the person. App. Br. 13 (Claim 1).

Applying the framework set forth in *Alice*, and as the first step of that analysis, we agree with the Examiner that claim 1 is directed to an abstract idea (Ans. 9). The steps recited in claim 1 involve nothing more than collecting data, i.e., information about the relationships between employees in an organization; analyzing the data, i.e., to identify instances of a relationship; generating a map; and categorizing/displaying the relationship

by weighting the relationship link on the map. In this regard, we agree with the Examiner that the steps of claim 1 are similar to the steps that the Federal Circuit determined were patent ineligible in *Content Extraction & Transmission v. Wells Fargo Bank*, 776 F.3d 1343 (Fed. Cir. 2014) and *Cyberfone Systems, LLC v. CNN Interactive Group, Inc.*, 558 F. App'x 988 (Fed. Cir. 2014) (non-precedential) (Ans. 9–10), and more recently, in *Electric Power Grp. LLC v. Alstom*, 830 F.3d 1350 (Fed. Cir. 2016).

In *Content Extraction*, the Federal Circuit considered the patent eligibility of a method claim for “processing information from a diversity of types of hard copy documents.” *Content Extraction*, 116 F.3d at 1345. Applying step one of the *Alice* framework, the Federal Circuit determined that the claim was “drawn to the abstract idea of 1) collecting data, 2) recognizing certain data within the collected data set, and 3) storing that recognized data in a memory”—concepts that the court noted were “undisputedly well-known.” *Id.* at 1347.

In *Cyberfone*, the court evaluated a method claim reciting steps that required “obtaining data, ‘exploding’ the data, i.e., separating it into component parts, and sending those parts to different destinations.” *Cyberfone*, 558 F. App'x at 990. The Federal Circuit held that this claim involved an abstract idea, explaining that “using categories to organize, store, and transmit information is well-established” and that “the well-known concept of categorical data storage, i.e., the idea of collecting information in classified form, then separating and transmitting that information according to its classification, is an abstract idea that is not patent-eligible.” *Id.* at 992.

In *Electric Power*, the method claims at issue were directed to performing real-time performance monitoring of an electric power grid by collecting data from multiple data sources, analyzing the data, and displaying the results. *Elec. Power Grp.*, 830 F.3d at 1351–52. There, the Federal Circuit held that the claims were directed to an abstract idea because “[t]he advance they purport to make is a process of gathering and analyzing information of a specified content, then displaying the results, and not any particular assertedly inventive technology for performing those functions.” *Id.* at 1354.

Similarly here, we find that claim 1 involves nothing more than collecting data, analyzing the data, and categorizing users as belonging to a particular category based on the analyzed data—fundamental activities squarely within the realm of abstract ideas. *See id.* at 1353–54 (characterizing collecting information, analyzing information by steps people go through in their minds, or by mathematical algorithms, and presenting the results of collecting and analyzing information, without more, as matters within the realm of abstract ideas).

Turning to the second step of the *Alice* analysis, similar to the situation in *Electric Power*, we find nothing sufficient to remove the claims from the class of subject matter ineligible for patenting. As the court explained in *Electric Power*, “merely selecting information, by content or source, for collection, analysis, and display does nothing significant to differentiate a process from ordinary mental processes, whose implicit exclusion from § 101 undergirds the information-based category of abstract ideas.” *Id.* at 1355.

There is no indication in the record that any specialized computer hardware or other “inventive” computer components are required in claim 1. Claim 1 merely employs generic computer components to perform generic computer functions, i.e., collecting, storing, and processing information, which is not enough to transform an abstract idea into a patent-eligible invention.

Appellants argue that claim 1 necessarily contains an “inventive concept” because “[t]he technology transforms the seemingly unrelated data to generate a user interface that easily illustrates relationships that were unknown using manual methods.” Reply Br. 6–7 (citing *DDR Holdings, LLC v. Hotels.com*, 773 F. 3d 1245 (Fed. Cir. 2014)). We disagree. In *DDR Holdings*, the Federal Circuit found that the claims were directed to patentable subject matter because they “specify how interactions with the Internet are manipulated to yield a desired result--a result that overrides the routine and conventional sequence of events ordinarily triggered by the click of a hyperlink.” *DDR Holdings*, 773 F.3d at 1258. Significantly, the Federal Circuit identified this limitation as differentiating from claims that “recite a commonplace business method aimed at processing business information, applying a known business process to the particular technological environment of the Internet, or creating or altering contractual relations using generic computer functions and conventional network operations” and were, thus, found directed to patent-ineligible subject matter. *Id.* at 1258–59.

Here, claim 1 does not purport to improve the functioning of the computer system itself. Nor does it effect an improvement in any other technology or technical field. Instead, claim 1 amounts to nothing

significantly more than an instruction to implement the abstract idea of “relationships between individuals within an organization” using generic computer components. This is insufficient to transform an abstract idea into a patent-eligible invention.

Moreover, that the claims do not preempt all forms of the abstraction does not make them any less abstract. *See* Reply Br. 7; *see also OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1360–1361 (Fed. Cir. 2015).

For these reasons, we affirm the Examiner’s 35 U.S.C. § 101 rejection of claim 1, as well as claims 2–25, not argued separately.

Rejection of Claims 1–25 under 35 U.S.C. § 103(a)

In rejecting claim 1 for obviousness, the Examiner found that Robins teaches or suggests all of the limitations of claim 1, except collecting information from email servers and the limitation “wherein the weighting is based on a frequency of instances of relationships between the selected employee and the person.” *See* Final Act. 5–8. The Examiner relied on Isaacs as teaching or suggesting those limitations. *Id.*

Appellants contend the Examiner erred because the cited portions of Robins do not teach the novel instances of relationships recited in the claims. App. Br. 8–9. In particular, Appellants argue that Robins does not teach the limitation “wherein a third instance of a relationship is generated between the selected employee and the person when the selected employee shares a common customer with the person based on the CRM data,” recited in claim 1. *Id.*

Appellants’ arguments do not persuade us of Examiner error. The Examiner found that Figure 3 of Robins teaches relationships between sales managers and sales agents who are in a boss/employee relationship, and

between sales agents who work in the same departments, and between sales managers/agents and purchasing managers/agent who work with the same customers. Ans. 12. Furthermore, the Examiner concluded that, under a broad, but reasonable, interpretation, claim 1 requires only one relationship link and one instance of the types of relationships recited in the claim. *Id.* at 13.

Appellants have not persuasively shown that the Examiner's interpretation of claim 1 is overly broad, unreasonable, or inconsistent with the Specification. Instead, Appellants argue in a conclusory manner that "[a]ll instances must be determined as claimed, regardless that the relationship link is based on only 'one or more instances of a relationship.'" Reply Br. 4. Moreover, Appellants have not addressed what the portions of Robins cited by the Examiner would have suggested to an artisan of ordinary skill. *See* App. Br. 9–11. The test for obviousness is not whether the claimed invention is expressly suggested in any one or all of the references, but whether the claimed subject matter would have been obvious to those of ordinary skill in the art in light of the combined teachings of those references. *In re Keller*, 642 F.2d 413, 425 (CCPA 1981).

For these reasons, we are not persuaded that the Examiner erred in finding that the combination of Robins and Isaacs teaches or suggests the limitations of claim 1.

Accordingly, we sustain the 35 U.S.C. § 103(a) rejection of independent claim 1, as well as the 35 U.S.C. § 103(a) rejection of independent claims 13, 18, and 22, which Appellants argue are patentable for similar reasons. App. Br. 11. We also sustain the Examiner's rejection

of dependent claims 2–12, 14–17, 19–21, and 23–25, for which Appellants make no separate arguments for patentability. *Id.* at 11–12.

DECISION

We reverse the decision of the Examiner rejecting claims 1–25 for lack of written description.

We affirm the decision of the Examiner rejecting claims 1–25 as directed to non-statutory subject matter.

We affirm the decision of the Examiner rejecting claims 1–25 for obviousness.

Because we affirm at least one ground of rejection with respect to each claim on appeal, the Examiner’s decision rejecting claims 1–25 is affirmed. *See* 37 C.F.R. § 41.50(a)(1).

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED